

**MINUTES**  
**MICHIGAN STATE TRANSPORTATION COMMISSION MEETING**  
**September 26, 2002**  
**Lansing, Michigan**

Meeting noticed in accordance with Open Meetings Act, Public Act 267 of 1976.

Present:      Ted Wahby, Vice Chairman  
                 Betty Jean Awrey, Commissioner  
                 Lowell Jackson, Commissioner  
                 John Garside, Commissioner  
                 C. Robert Baillod, Commissioner

                 Charles Krupka, Commission Advisor  
                 Jerry Jones, Commission Auditor  
                 Vickie Plummer, Executive Secretary  
                 Pat Isom, Assistant Attorney General  
                 Greg Rosine, Director  
                 Barb Hayes, Chief Administrative Officer  
                 Larry Tibbits, Chief Operations Officer  
                 Philip Kazmierski, Bureau of Urban and Public Transportation  
                 Wayne Niles, Bureau of Finance and Administration  
                 Gary D. Taylor, Bureau of Highway Technical Services  
                 Louis Lambert, Bureau of Transportation Planning  
                 Tom Maki, Office of Strategic Planning & Initiatives

Absent:        Barton LaBelle, Chairman

A list of those people who attended the meeting is attached to the official minutes.

Vice Chairman Wahby called the meeting to order at 9:15 a.m. in the Bureau of Aeronautics Auditorium, Lansing, Michigan.

**APPOINTMENTS**

Transportation Asset Management Council

Charlie Krupka, Commission Advisor, reported on the names submitted for nomination to the Transportation Asset Management Council.

It was moved by Commissioner Awrey, with support from Commissioner Baillod, to approve the nominations to the Transportation Asset Management Council, as submitted. The motion carried on a unanimous voice vote.

## **COMMISSION BUSINESS**

### Commission Minutes

It was moved by Commissioner Awrey, with support from Commissioner Jackson, to approve the minutes of August 23, 2002, as submitted. The motion carried on a unanimous voice vote.

### 2003 Commission Schedule

It was moved by Commissioner Awrey, with support from Commissioner Garside, to approve the 2003 schedule as submitted. The motion carried on a unanimous voice vote.

## **OVERSIGHT**

### Commission/State Administrative Board Contracts and Agreements (Exhibit A and Supplemental Exhibits (3) to A)

Charlie Krupka reported on three supplemental contracts/agreements submitted by the Department, and noted that approval of the third supplemental to Exhibit A is subject to completion of the internal review process.

It was moved by Commissioner Awrey, with support from Commissioner Jackson, to grant approval to the Department to proceed with the contract process. The motion carried on a unanimous voice vote.

### Bid Letting Pre-Approvals (Exhibit A-1)

It was moved by Commissioner Jackson, with support from Commissioner Awrey, to grant approval to the Department to proceed with the contract process. The motion carried on a unanimous voice vote.

### Letting Exceptions (Exhibit A-2)

It was moved by Commissioner Awrey, with support from Commissioner Baillod, to grant approval to the Department to proceed with the contract process. The motion carried on a unanimous voice vote.

### Information Items (Exhibit A-3)

This exhibit was submitted for information only and does not require approval.

Contract Adjustments

Gary Taylor, Chief Engineer/Deputy Director, Bureau of Highway Technical Services, reported on the contract extras and overruns, Exhibit B.

It was moved by Commissioner Garside, with support from Commissioner Jackson, to approve the contract adjustments. The motion carried on a unanimous voice vote.

Six-Month Financial Audit & Internal Audit Follow-Ups (Exhibits C & D)

Jerry Jones, Commission Auditor, reported on the Michigan Department of Transportation's (MDOT) outstanding financial and internal audit reports, Exhibits C and D.

Vice Chairman Wahby expressed concern with the amount of time the Department is taking to complete and close out the audits, with follow-up action in some cases being taken only after the Commission Auditor sends an inquiry as to the status of these audits. He reminded the Department of the importance of taking action in a timely manner to complete the process to close out audits.

The Vice Chairman indicated that he reviewed the internal audit recommendations and current responses. He noted that the project completion dates to implement some of the recommendations were again moving out further in time. He also expressed his concern with the response to the recommendation regarding vehicle travel logs. Vice Chairman Wahby noted that this recommendation had been outstanding for more than eight years. Although it is recognized that the Department intends to update their monitoring program, MDOT is not in compliance with the Department of Management and Budget's (DMB) vehicle use requirements. Vice Chairman Wahby recommended acceptance of the Department's current response if, in the interim 90 days that the Department is asking for to design a new management system, the Director requires all employees utilizing vehicles to maintain documentation of that use by recording daily odometer readings, destinations, miles driven and the purpose of travel, in compliance with DMB regulations. This document should then be used in determination of the number of vehicles needed by the Department in conjunction with the development of the new system. The Vice Chairman also asked the Department to provide a monthly update to the Commission on vehicle usage and the status of implementing the new management system.

Director Rosine noted the Department will continue to work with the Office of Commission Audit to assure MDOT is in compliance with DMB regulations. The Director expressed concern regarding the accuracy of manual vehicle logs to determine fleet requirements. He provided that integrating the use of fleet fuel credit card reports in combination with the

automated employee time reporting system could be beneficial in determining appropriate vehicle usage.

The Commission Auditor noted his understanding of the Department's intent to improve their monitoring system, but expressed concern that the Department is not in compliance with DMB regulations.

Vice Chairman Wahby communicated the need for accountability and that some method or system be put in place immediately.

It was then moved by Vice Chairman Wahby, with support from Commissioner Awrey, to accept the follow-up reports with the recommendation that immediate action be taken on the vehicle logs. The motion carried on a unanimous voice vote.

#### Disadvantaged Business Enterprise Goals (Exhibit E)

Charles Ford, Administrator, Office of Equal Opportunity, reported on the Fiscal Year 2003 Disadvantaged Business Enterprise (DBE) participation. It was then recommended that the Commission adopt a DBE goal of 11 percent for Fiscal Year 2003.

It was moved by Commissioner Baillod, with support from Commissioner Jackson, to approve a DBE goal of 11 percent for Fiscal Year 2003. The motion carried on a unanimous voice vote.

### **RESOLUTIONS**

#### Resolution 2002-01 (Opposition to the Healthy Michigan Proposal)

Director Rosine reported on the Healthy Michigan Proposal and provided explanation that this proposal would jeopardize future investments in the transportation system.

It was moved by Commissioner Jackson, with support from Commissioner Awrey, to approve Resolution 2002-01 as submitted. The motion carried on a unanimous voice vote.

### **PRESENTATIONS**

#### Director's Report

Director Rosine reported that the MDOT budget was recently passed by the Legislature and will be presented to the Governor for signature. Upcoming issues to be discussed by the

Legislature include an increase in diesel tax, the Detroit Area Regional Transportation Authority, and the airport security protection program.

The Director introduced Rob Abent, the new administrator for the Multi-Model Division, Myron Frierson, the new administrator for the Bureau of Finance and Administration, and Roger Safford, the new Grand Region engineer. Interviews will be finished next week for a new administrator for the Bureau of Transportation Planning.

Director Rosine provided that MDOT, the Michigan Road Builders Association, the Association of Underground Contractors, the Michigan Pavement Association, the Michigan Concrete Pavement Association, and the Michigan Asphalt Pavement Association continue to meet and discuss performance warranties. Several items have yet to be resolved including total project liability and sub-grade issues. A conflict resolution process has been developed, in case of disagreements regarding pavement failure or contract issues, to help identify burden of proof. The Department is waiting for final comments on this process from the industry to finalize contract language. The Director also reported that three performance warranty projects have been identified by the Department for the upcoming construction season. One key issue of disagreement between MDOT and the construction industry is the aggregate base constructed by the contractor below the hard surface pavement.

It has been determined that transportation issues related to a Petosky bypass are local issues, with no community support for a bypass. MDOT has recommended that the county and townships develop a team to study local road alternatives.

The Director also reported that the Department has amended their pre-qualification rules and is now in the public hearing process.

## **PUBLIC COMMENTS**

Tony Milo, Michigan Road Builders Association, reported that a "key concepts" document is the only document the industry has received in writing from MDOT regarding performance warranties. The industry does have major concerns regarding this document, and Mr. Milo reported that if projects are written consistently with this "key concepts" document, the industry will be opposed to the performance warranty projects. One key issue is the statement by Director Rosine that contractors guarantee only what they have control over; the language in the "key concepts" document reads "reasonable opportunity to control" and the industry is not clear on what that statement means. Another concern is multiple contractors carrying multiple bonds between the pavement, the subbase, and the under drains.

Mike Nystrom, Association of Underground Contractors (AUC), commented that the five associations mentioned by the Director are all opposed to the "key concepts" document. The

industry had an understanding, in the beginning, that discussions would involve performance warranties on hard structure pavements only. As directed by the Commission, the industry met with the Department to discuss these types of warranties, and now finds the entire structure has come into question under the performance warranty issue. Mr. Nystrom agrees with Mr. Milo that the "key concepts" document may cause problems with deliberations on the proposed performance warranty contracts.

Director Rosine provided that it is understandable no one wants to accept additional risks, and the Department will try to hold contractors responsible for only items in which the contractors are in control of, but he feels it is important to move ahead and test the process.

Ed Noyola, Michigan Asphalt Paving Association (MAPA), reported that MAPA stands in unison with what was described by MRBA and AUC. It was the intention of MAPA, and is still their position, to support the warranty program as it relates to hard surfaces. MAPA agrees with the issues brought forward by MRBA and AUC.

#### 2003 Road and Bridge Program

Denise Jackson, Bureau of Transportation Planning, provided information on the 2002 road and bridge preservation accomplishments. The Department is continuing toward meeting their pavement goals of 95 percent good freeways and 85 percent good non freeways by 2007. By the end of 2002, 88 percent good freeways and 74 percent good non freeways will be accomplished. MDOT continues to respond to public needs by suspending work on holidays and during special events, and by completing work on time or ahead of schedule.

Ms. Jackson provided Fiscal Year (FY) 2003 revenue assumptions, and reported on the FY 2003 Road and Bridge Program which includes rehabilitation and reconstruction of major roads and bridges, capital preventive maintenance, capacity improvements, passing relief lanes, and major new road projects. Other investments include safety, federal mandates, high priority projects, state-funded programs. The 2003 program includes \$1.36 billion, with more than 185 bridges to be improved and 1,490 miles of state trunkline roads to be improved.

#### **ADJOURNMENT**

Vice Chairman Wahby adjourned the meeting at 10:30 a.m.

---

Commission Advisor

State Transportation Commission  
September 26, 2002  
Page 7